

SUMMARY

ECJ 15 July 2021, case C-535/19 (A (Soins de santé publics)), Social Insurance

***A (Intervening Party: Latvijas Republikas Veselības ministrija),
Latvian case***

Summary

Economically inactive Union citizens residing in a Member State other than their Member State of origin have the right to be affiliated to the public sickness insurance system of the host Member State, but not necessarily free of charge.

Questions

Must Article 3(1)(a) of Regulation No 883/2004 be interpreted as meaning that medical care, financed by the State, which is granted without any individual and discretionary assessment of personal needs to persons falling within the categories of recipients defined by national legislation, constitutes ‘sickness benefits’ within the meaning of that provision, thus falling within the scope of that regulation, or whether it constitutes ‘social and medical assistance’ excluded from the scope of that regulation under Article 3(5)(a) thereof?

Must Article 4 and Article 11(3)(e) of Regulation No 883/2004 and Article 7(1)(b) and Article 24 of Directive 2004/38 be interpreted as precluding national legislation which excludes from the right to be affiliated to the public sickness insurance system of the host Member State, in order to receive medical care financed by that State, economically inactive Union citizens, who are nationals of another Member State and who fall, by virtue of Article 11(3)(e) of that regulation, within the scope of the legislation of the host Member State and who are exercising their right of residence in the territory of that State under Article 7(1)(b) of that directive?

Ruling

Article 3(1)(a) of Regulation (EC) No 883/2004 of the European Parliament and of the Council of 29 April 2004 on the coordination of social security systems, as amended by Regulation (EC) No 988/2009 of the European Parliament and of the Council of 16 September 2009, must be interpreted as meaning that medical care, financed by the State, which is granted, without any individual and discretionary assessment of personal needs, to persons falling within the categories of recipients defined by national legislation, constitutes ‘sickness benefits’ within the meaning of that provision, thus falling within the scope of Regulation No 883/2004, as amended by Regulation No 988/2009.

Article 11(3)(e) of Regulation No 883/2004, as amended by Regulation No 988/2009, read in the light of Article 7(1)(b) of Directive 2004/38/EC of the European Parliament and of the Council of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States amending Regulation (EEC) No 1612/68 and repealing Directives 64/221/EEC, 68/360/EEC, 72/194/EEC, 73/148/EEC, 75/34/EEC, 75/35/EEC, 90/364/EEC, 90/365/EEC and 93/96/EEC, must be interpreted as precluding national legislation which excludes from the right to be affiliated to the public sickness insurance scheme of the host Member State, in order to receive medical care financed by that State, economically inactive Union citizens, who are nationals of another Member State and who fall, by virtue of Article 11(3)(e) of Regulation No 883/2004, as amended by Regulation No 988/2009, within the scope of the legislation of the host Member State and who are exercising their right of residence in the territory of that State under Article 7(1)(b) of that directive.

Article 4 and Article 11(3)(e) of Regulation No 883/2004, as amended by Regulation No 988/2009, and Article 7(1)(b) and Article 24 of Directive 2004/38 must be interpreted, by contrast, as not precluding the affiliation of such Union citizens to that system from not being free of charge, in order to prevent those citizens from becoming an unreasonable burden on the public finances of the host Member State.

Creator: European Court of Justice (ECJ)

Verdict at: 2021-07-15

Case number: C-535/19